

REMARKS

This Amendment is responsive to the Final Action dated September 19, 2005. The claim amendments included herein are merely clarifying amendments and are not meant to change the intended scope of the claims. Thus, the amendments present the rejected claims in better form for consideration on appeal, and they should be entered in due course. Moreover, the amendments are manifest, requiring only a cursory review by the Examiner, thereby providing additional ground for their entry.

Claims 1-3, 5-8, 10-13 and 15 were pending in the application. In the Final Action, claims 1-3, 5-8, 10-13 and 15 were rejected. In this Amendment, claims 1, 6 and 11 have been amended. Claims 1-3, 5-8, 10-13 and 15 thus remain for consideration.

Applicants submit that the application is now in condition for allowance and request reconsideration and withdrawal of the rejections in light of the following remarks.

Claim Objections

Claims 1, 3 and 5 were objected to because of informalities.

Claims 1, 6 and 11 have been amended. Applicants submit that the amendments to claims 1, 6 and 11 render the pending claims compliant with all formality requirements, and therefore request that the objections to the claims be withdrawn.

§112 Rejections

Claims 1-3, 5-8, 10-13 and 15 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

Applicants submit that the amendments to claims 1, 6 and 11 render claims 1-3, 5-8, 10-13 and 15 compliant with §112,

and therefore request that the rejections under §112 be withdrawn.

§103 Rejections

Claims 1-3, 5-8, 10-13 and 15 were rejected under 35 U.S.C. §103(a) as being unpatentable over "Robust Audio Watermarking Using Perceptual Masking" by Swanson et al (Swanson), in view of "Towards a Telltale Watermarking Technique for Tamper-Proofing" by Kundur et al (Kundur).

Applicants respectfully submit that the independent claims (claims 1, 6 and 11) are patentable over Swanson and Kundur.

Applicants' invention as recited in the independent claims is directed toward a device and method for superimposing digital watermarking information on an audio signal, and a storage medium for storing a program code to implement the method. Each of the claims recites: "superimposing on said audio signal first digital watermarking information and second digital watermarking information to create a marked audio signal, said first digital watermarking information and said second digital watermarking information being based on [] psychological auditory sense encoded information and being characterized in that, upon compression of said marked signal to create a compressed signal, said first digital watermarking information can be completely or substantially recovered from said compressed signal and said second digital watermarking information cannot be completely or substantially recovered from said compressed signal; wherein said psychological auditory sense encoded information includes the respective frequency bands of said audio signal on which said first and second digital watermarking information are to be superimposed, and the respective levels to which the first and second digital watermarking information should be set prior to

superimposition." Each of the claims further recites that "when the marked audio signal is reproduced the survival state of said first and second digital watermarking information is operable as copy control information." Supporting disclosure for the survival states of the first digital watermarking information (i.e. "robust watermark") and second digital watermarking information (i.e. "fragile watermark") being operable as copy control information can be found in the specification at, for example, Fig. 2; and page 5, line 23 - page 6, line 16.

Neither Swanson nor Kundur discloses the survival states of a "robust watermark" a "fragile watermark" being operable as copy control information. Accordingly, Applicants believe that claims 1, 6 and 11 are patentable over Swanson and Kundur - taken either alone or in combination - on at least this basis.

In addition, regarding Kundur, Applicants note that even if Kundur is construed as disclosing a "fragile watermark," it does not disclose embedding such fragile watermark according to psychological auditory sense encoded information. Such deficiency is not cured by Swanson since Swanson is limited to "robust" watermarking. That is, even if Swanson is construed as disclosing embedding watermark information according to psychological auditory sense encoded information, it teaches away from the embedding of fragile watermark information by teaching the embedding of robust watermark information. Accordingly, Applicants believe that the claim recitation of embedding fragile watermark according to psychological auditory sense encoded information imbues claims 1, 6 and 11 with additional patentable distinction over Swanson and Kundur.

Furthermore, Applicants note that claims 2, 3, 5, 7, 8, 10, 12, 13 and 15 depend respectively on independent claims 1, 6 and 11. Since dependent claims inherit the limitations of their respective base claims, claims 2, 3, 5, 7, 8, 10, 12, 13

and 15 are patentable over the cited references for at least the same reasons discussed in connection with claims 1, 6 and 11.

Applicants respectfully submit that all of the claims now pending in the application are in condition for allowance, which action is earnestly solicited. If any issues remain, or if the Examiner has any further suggestions, he/she is invited to telephone the undersigned at (908) 654-5000.

The Examiner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account No. 12-1095.

The Examiner's consideration of this matter is gratefully acknowledged.

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Respectfully submitted,

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